

REPORT OF THE COMMITTEE ON ZONING AND PLANNING

Voting Members:

Ikaika Anderson, Chair; Trevor Ozawa, Vice-Chair;
Carol Fukunaga, Ann H. Kobayashi, Joey Manahan

Committee Meeting Held
July 23, 2015

Honorable Ernest Y. Martin
Chair, City Council
City and County of Honolulu

Mr. Chair:

Your Committee on Zoning and Planning, to which was referred
Bill 44 (2015) entitled:

"A BILL FOR AN ORDINANCE RELATING TO PUBLIC PEDESTRIAN MALLS IN
THE DOWNTOWN AND CHINATOWN AREAS,"

which passed Second Reading at the July 8, 2015 Council meeting, reports as follows:

The purpose of Bill 44 (2015) is to amend the law prohibiting, subject to exceptions, persons from sitting or lying on public malls in the Downtown Honolulu and Chinatown areas. The Bill would amend Ordinance 15-14 by extending the prohibition for sitting or lying on public malls to College Walk Mall, mauka of Beretania Street and Makai of Vineyard Boulevard 24 hours a day/seven days a week; Kila Kalikimaka Mall 24 hours a day/seven days a week and change the applicable hours for Union Mall from Monday through Friday, 5:00 a.m. to 7:00 p.m. to 24 hours a day/seven days a week.

At your Committee's meeting on July 23, 2015, the Managing Director testified that the Administration understands the concerns brought forth in the Bill; however, due to the non-commercial zoning of some properties included in the Bill, he further stated that it may be difficult to prove that cited individuals are impeding access to businesses.

Various questions were asked of the Managing Director by several committee members regarding the Administration's progress in identifying locations in which to

CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON AUG 5 2015

COMMITTEE REPORT NO. 299

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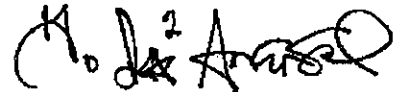
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provide homeless services. Committee Chair Anderson asked the Managing Director if the Administration had formed a working group to actively seek out and identify areas for shelter and if so, would the Administration consider allowing one of the City Councilmembers to be a part of that group. The Managing Director responded that "anything to improve and facilitate is a good thing." It was generally agreed that both the City and State need to work together quickly to find suitable shelter and services for the homeless population.

Comments on the Bill were offered by seven members of the public. Written testimony in support of the Bill's intent was received from the Chamber of Commerce of Hawaii, and from the Fort Street Mall Improvement District Association. Written testimony opposing Bill 44 was received from Hawaii Appleseed Center for Law and Economic Justice.

Your Committee on Zoning and Planning is in accord with the intent and purpose of Bill 44 (2015) and recommends that it pass Third Reading. (Ayes: Anderson, Fukunaga, Kobayashi, Manahan, Ozawa – 5; Noes: None.)

Respectfully submitted,



Committee Chair

At the 8/5/15 Council meeting, the Bill was amended and subsequently passed third reading in the form attached hereto as Bill 44, FD1.

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CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON AUG 5 2015

COMMITTEE REPORT NO. 299



A BILL FOR AN ORDINANCE

RELATING TO PUBLIC PEDESTRIAN MALLS IN THE DOWNTOWN AND CHINATOWN AREAS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Council Findings and Purpose. The purpose of this ordinance is to prohibit, subject to exceptions, persons from sitting or lying on public malls in the Downtown Honolulu and Chinatown areas.

The Council finds that the closure of certain streets or parts thereof to vehicular traffic and the creation of public malls promote the movement, safety, convenience, enjoyment and entertainment of pedestrians in areas with high pedestrian traffic. Public malls also provide passageways for pedestrians to access a wide variety of commercial enterprises, meeting facilities, recreational areas, and public and private services. Maintaining the flow of pedestrian activity on public malls ensures walkability, and generally allows pedestrians to reach their destinations.

Sitting or lying on public malls is not the intended or customary use of public malls. Persons who sit or lie on public malls threaten their own safety and the safety of pedestrians, who are put at increased risk when they must avoid and navigate around persons sitting or lying on public malls, or from unsanitary conditions resulting therefrom. Pedestrians are discouraged from using and enjoying public malls, and from walking as a means of transportation or recreation if they know that they will be impeded by persons who are sitting or lying on the public malls.

SECTION 2. Section 29-____.1, as enacted in SECTION 2 of Ordinance 15-1, is amended to read as follows:

"Sec. 29-____.1 Prohibition—Exceptions—Citations.

- (a) No person shall sit or lie on a public mall, or on a tarp, towel, sheet, blanket, sleeping bag, bedding, planter, chair, bench, or any other object or material placed upon a public mall during the following hours:

(1) College Walk Mall. Sunday through Saturday, all hours.

[(1)] (2) Fort Street Mall. [Monday] Sunday through [Friday] Saturday from 5:00 a.m. to [7:00] 10:00 p.m.

[(2)] (3) Kekaulike Mall. Sunday through Saturday from 5:00 a.m. to 7:00 p.m.

(4) Kila Kalikimaka Mall. Sunday through Saturday, all hours.



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[(3)] (5) Sun Yat Sen Mall. Monday through Friday from 5:00 a.m. to 7:00 p.m.

[(4)] (6) Union Mall. [Monday through Friday from 5:00 a.m. to 7:00 p.m.] Sunday through Saturday, all hours.

(b) The prohibitions in subsection (a) shall not apply to:

- (1) Any person sitting or lying on a public mall due to a medical emergency;
- (2) Any person who, as a result of a disability, is utilizing a wheelchair or other similar wheeled chair device to move about the public mall;
- (3) Any person sitting or lying on the public mall for the purpose of engaging in an expressive activity;
- (4) Any person sitting on the public mall while attending or viewing any festival, performance, rally, demonstration or similar event conducted on the public mall pursuant to a permit issued by the city;
- (5) Any person engaged in a maintenance, repair or construction activity on behalf of a governmental entity or a public utility;
- (6) Any child who is sitting or lying in a baby carriage, stroller, or carrier, or similar device, to move about the public mall;
- (7) Any person sitting on a chair or bench located on the public mall that is placed there by a public agency or pursuant to permit issued by the city;
- (8) Any person sitting in line for goods or services unless the person or person's possessions impede the ability of pedestrians to travel along the length of the mall or enter a doorway or other entrance alongside the mall; and
- (9) Any person engaging in an authorized activity on the mall pursuant to a permit issued by the director of parks and recreation in accordance with department of parks and recreation rules.

(c) No person shall be cited for a violation of this section unless the person engages in conduct prohibited by this section after having been notified by a law enforcement officer that the conduct violates this section.



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(d) As used in this section:

"College Walk Mall" means the same as "College Walk Mall" in Section 29-1.1.

"Expressive activity" means speech or conduct, the principal object of which is the expression, dissemination, or communication by verbal, visual, literary, or auditory means of political, religious, philosophical, or ideological opinions, views, or ideas, and for which no fee is charged or required as a condition of participation in or attendance at such activity. Expressive activity generally would not include sports events, such as marathons; fundraising events; beauty contests; commercial events; cultural celebrations or other events the principal purpose of which is entertainment.

"Fort Street Mall" means the portion of Fort Street established as a pedestrian mall under Section 15-25.1(b).

"Kekaulike Mall" means the area of Kekaulike Street, between Hotel Street and King Street.

"Kila Kalikimaka Mall" means the area immediately adjacent to the parcel designated by TMK 1-7-026:010, from College Walk Mall to Aala Street.

"Mall," when used generally in this article, means collectively the College Walk Mall, Fort Street Mall, Kekaulike Mall, Kila Kalikimaka Mall, Sun Yat Sen Mall, and Union Mall.

"Sun Yat Sen Mall" means the same as "Sun Yat Sen Mall" in Section 29-1.1.

"Union Mall" means the portion of Union Street established as a pedestrian mall under Section 15-25.1(a)."



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HONOLULU, HAWAII

ORDINANCE _____

BILL **44 (2015), FD1**

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SECTION 3. This ordinance takes effect upon its approval.

INTRODUCED BY:

Carol Fukunaga

DATE OF INTRODUCTION:

May 28, 2015
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20____.

KIRK CALDWELL, Mayor
City and County of Honolulu